

STATE OF NEW YORK

9401

IN SENATE

May 15, 2024

Introduced by Sens. HINCHEY, GONZALEZ -- read twice and ordered printed,
and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to requiring certain businesses to conduct artificial intelligence impact assessments; and to amend the tax law, in relation to establishing a surcharge on certain corporations that use artificial intelligence or data mining or have greater than fifteen employees displaced by artificial intelligence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York workforce stabilization act".

3 § 2. The labor law is amended by adding a new section 201-j to read as
4 follows:

5 § 201-j. Artificial intelligence impact assessments. 1. No employer
6 shall utilize or apply any artificial intelligence unless the employer,
7 or an entity acting on behalf of such employer, shall have conducted an
8 impact assessment for the application and use of such artificial intel-
9 ligence. Following the first impact assessment, an impact assessment
10 shall be conducted at least once every two years. An impact assessment
11 shall be conducted prior to any material change to the artificial intel-
12 ligence that may change the outcome or effect of such system. Such
13 impact assessments shall include:

14 (a) a description of the objectives of the artificial intelligence;

15 (b) an evaluation of the ability of the artificial intelligence to
16 achieve its stated objectives;

17 (c) a description and evaluation of the objectives and development of
18 the artificial intelligence including:

19 (i) a summary of the underlying algorithms, computational modes, and
20 tools that are used within the artificial intelligence; and

21 (ii) the design and training data used to develop the artificial
22 intelligence process;

23 (d) the extent to which the deployment and use of the artificial
24 intelligence requires input of sensitive and personal data, how that
25 data is used and stored, and any control users may have over their data;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (e) an estimate of the number of employees already displaced due to
2 artificial intelligence; and

3 (f) an estimate of the number of employees expected to be displaced or
4 otherwise affected due to the increased use of artificial intelligence
5 in the workplace.

6 2. Any impact assessment conducted pursuant to this subdivision shall
7 be submitted to the department at least thirty days prior to the imple-
8 mentation of the artificial intelligence that is the subject of such
9 assessment.

10 3. For the purposes of this section:

11 (a) "Employer" means a business that: (i) is resident in the state,
12 (ii) is not a small business, and (iii) employs more than one hundred
13 people.

14 (b) "Small business" means a business that: (i) is resident in the
15 state, (ii) is independently owned and operated, (iii) is not dominant
16 in its field, and (iv) employs one hundred or less people.

17 § 3. The tax law is amended by adding a new section 186-h to read as
18 follows:

19 § 186-h. Artificial intelligence surcharge. 1. Imposition of worker
20 displacement surcharge. (a) A surcharge on corporations that terminate
21 the employment or substantially reduce the hours of fifteen or more
22 employees due to any system or process that uses algorithms, computa-
23 tional models, artificial intelligence techniques, robotic hardware, or
24 a combination thereof, to automate, support, or replace human labor is
25 imposed at the rate of two percent of the corporation's business income
26 base.

27 (b) The surcharge shall be reported and paid to the commissioner no
28 less frequently than on an annual basis. The payments shall be accompa-
29 nied by a return in the form and containing the information the commis-
30 sioner may prescribe.

31 (c) The commissioner, in consultation with the department of labor,
32 may waive the surcharge set forth by paragraph (a) of this subdivision
33 for an eligible corporation. The commissioner, in consultation with the
34 department of labor, shall establish a process whereby eligible corpo-
35 rations may apply to have the surcharge waived. For the purposes of this
36 section, an eligible corporation shall be:

37 (i) A business that is found by the department of labor to be experi-
38 encing or anticipating a labor shortage;

39 (ii) A business that demonstrates that it requires the use of algo-
40 rithms, computational models, artificial intelligence techniques, robot-
41 ic hardware, or a combination thereof, to protect or improve the
42 production of agricultural commodities within the state; or

43 (iii) A small business, as defined by section one hundred thirty-one
44 of the economic development law, that demonstrates that it requires the
45 use of algorithms, computational models, artificial intelligence tech-
46 niques, robotic hardware, or a combination thereof, to remain econom-
47 ically viable.

48 (d) The department of labor shall annually report to the legislature
49 on the number of waivers that it has granted pursuant to paragraph (c)
50 of this subdivision, in the preceding year and the justification for why
51 each waiver was granted. Such report shall be sent to the temporary
52 president of the senate, the minority leader of the senate, the speaker
53 of the assembly, and the minority leader of the assembly and shall be
54 made available to the public on the website of the department.

55 2. Imposition of data mining surcharge. (a) A surcharge on corpo-
56 rations that use artificial intelligence for data mining is imposed at

1 the rate of two percent of the corporation's business income base. For
2 the purposes of this subdivision, the term "data mining" shall mean a
3 process involving pattern-based queries, searches, or other analyses of
4 one or more electronic databases.

5 (b) The surcharge shall be reported and paid to the commissioner no
6 less frequently than on an annual basis. Surcharge payments shall be
7 accompanied by a return in the form and containing the information the
8 commissioner may prescribe.

9 3. Applicable provisions. (a) Except as otherwise provided in this
10 section, the surcharges imposed under this section shall be administered
11 and collected by the commissioner in a like manner as the taxes imposed
12 by article twenty-eight of this chapter. All the provisions of article
13 twenty-eight of this chapter, including the provisions relating to defi-
14 nitions, exemptions, returns, personal liability for the tax, collection
15 of tax from the customer, payment of tax, and the administration of the
16 taxes imposed by such article, shall apply to the surcharges imposed
17 under the authority of this section so far as those provisions can be
18 made applicable to the surcharges imposed by this section, with such
19 modifications as may be necessary in order to adapt the language of
20 those provisions to the surcharges imposed by this section. Those
21 provisions shall apply with the same force and effect as if the language
22 of those provisions had been set forth in full in this section, except
23 to the extent that any of those provisions is either inconsistent with a
24 provision of this section or is not relevant to the surcharge imposed by
25 this section. For purposes of this section, any reference in this chap-
26 ter to a tax or the taxes imposed by article twenty-eight of this chap-
27 ter shall be deemed also to refer to the surcharges imposed by this
28 section unless a different meaning is clearly required.

29 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
30 sion:

31 (1) the exemptions provided for in section eleven hundred sixteen of
32 this chapter, other than the exemptions in paragraphs one, two and three
33 of subdivision (a) of such section, shall not apply to the surcharges
34 imposed by this section.

35 (2) the credit provided in subdivision (f) of section eleven hundred
36 thirty-seven of this chapter shall not apply to this section.

37 4. Deposits of surcharge monies collected and received. Notwithstand-
38 ing any provision of law to the contrary, all surcharge monies collected
39 and received by the commissioner under this section shall be deposited
40 daily to the credit of the comptroller with those responsible banks,
41 banking houses or trust companies the comptroller may designate. Those
42 deposits shall be kept separate and apart from all other monies in the
43 possession of the comptroller. The comptroller shall require adequate
44 security from all such depositories. All surcharge monies collected and
45 received under this section shall be paid to the department of labor to
46 be used, in a manner prescribed by the commissioner of the department of
47 labor, for worker retraining programs administered by the department,
48 workforce development programs administered by the department or to be
49 paid to the unemployment insurance fund.

50 § 4. This act shall take effect immediately; provided, however, that
51 section three of this act shall take effect January 1, 2025.